

## **REMARKS:**

### **Status of Claims**

Claims 1, 2, 4, 6, 7, 8 and 13 are pending, of which claim 1 is an independent claim.

### **Claim Rejections under 35 USC 112**

Claims 1-8, 10, 12 and 13 were rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner objected to claim 1 as being unclear which of the base layer, top layer and intermediary layer comprised fabric. Applicant believes that the amendments made to claim 1 in the above amendment have obviated the claim rejection under 35 USC 112.

### **Claim Rejections under 35 USC 102 and 103**

In the Office Action mailed July 7, 2008, claim 1 was rejected under 35 USC 102(b) as being anticipated by Pauly (US735,575). Claim 1 was rejected under 35 USC 102(a) as being anticipated by Komatsu' 676 (WO 03/024676). Claims 3-6, 12 and 13 were rejected 35 USC 103(a) as being unpatentable over Pauly in view of Jalowsky. Claim 7 was rejected under 35 USC 103(a) as being unpatentable over Pauly in view of Fortuna (US6,718,895). Claim 8 was rejected under 35 USC 103(a) as being unpatentable over Pauly in view of JP2000-64183. Claim 12 was rejected under 35 USC 103(a) as being unpatentable over Puly in view of Komatsu'420. Claim 13 was rejected under 35 USC 103(a) as being unpatentable over Pauly in view of Komatsu'420 and further in view of Jalowsky.

Both Pauly and Komatsu'676 fail to teach an intermediary layer made of foamed polyurethane. Nor do the other references.


The Examiner cannot use Komatsu'676 (WO 03/024676) because of the 131 affidavit by Goda submitted on April 8, 2008. Applicant was not generally alleging the prior invention in the affidavit, but along with the affidavit, Applicant submitted a photocopy of a product made according to the claimed steps prior to the effective date of Komatsu'676.

The evidence attached to the affidavit satisfies the requirement recited in MPEP (715.07I). Also, deduct of some facts including the date from evidence is a common practice in 131 affidavits (See MPEP 715.07II).

The Examiner found that as to the claimed cutting limitation, there is no requirement in the claim that the cutting step involves cutting a single sheet between its top and bottom surfaces to split the single sheet into two pieces. Applicant respectfully calls the Examiner attention to the claim language reciting the cutting step, which recites the limitation of "separating the top and base layers." The cutting step recited in claim 1 does not just recite "cutting a single sheet into two pieces" but recite cutting the intermediary layer to separate the top and base layers.

Respectfully submitted,

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